



CALIFORNIA OREGON BROADCASTING, Inc.  
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November 24, 2010

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

**Re:    *Comments – 2005 Closed Captioning NPRM and 2008 Closed Captioning  
NPRM, CG Docket No. 05-231 and ET Docket No. 99-254***

Dear Ms. Dortch:

California Oregon Broadcasting, Inc., licensee of digital television stations KOBİ, Medford, OR (Facility ID 8260), KOTI, Klamath Falls, OR (Facility ID 8284), and KLSR-TV, Eugene, OR (Facility ID 8322) (“COBI”) submits these comments in response to the October 25, 2010 Public Notice issued by the Commission’s Consumer & Governmental Affairs Bureau in the above-captioned proceeding (the “Notice”).

**Background:** COBI was founded by my father, pioneer broadcaster William B. Smullin, and remains a family-owned business. COBI is the longest, continuously independent broadcast group in the West, and one of the three oldest in the country. It is headquartered in Medford, Oregon. KOBİ (Channel 5), which began operating in 1953, and KOTI (Channel 2), which followed in 1956, are the only locally owned TV stations in the Rogue Valley and the Klamath Basin.

Viewers in southern Oregon and California receive programming from KOBİ, KOTI and KLSR-TV via over-the-air signals from the primary stations and a network of over 30 LPTV and TV translator stations, linked by over 120 microwave paths. The stations hold a number of television “firsts” in their over 50 year history. KOBİ was the first VHF television station in Oregon. It was the first TV station in Medford to offer local color programming, the first station to operate in stereo, the first Medford station to employ electronic news gathering technology, and was the first Medford station with statewide microwave news coverage. KOBİ and KOTI are NBC affiliates. KLSR-TV is a FOX affiliate. COBI’s number one interest is localism.



Established 1933, COBI owns: KOBİ TV NBC 5 Medford, with studios in Grants Pass and Coos Bay; KOTI TV 2K, Klamath Falls; KLSR TV Fox Eugene, Springfield, Corvallis; KEVU TV, Eugene; and Crestview Cable Communications, Oregon.

I am writing specifically to address how COBI's ability to serve the residents of southern Oregon and northern California would be affected, and ultimately threatened, by the expansion of captioning requirements for local news outside the Top 25 markets and for multicast channels. The Medford-Klamath Falls DMA is the 140th market in the country. Eugene is 119.

It is well-known that the recent technical and regulatory changes faced by small market stations like those owned by COBI, including the transition to digital operations, coupled with the current economic downturn, have created an environment where it is extremely hard for small market stations to remain economically viable. To create further regulatory obligations that add to the cost of providing free television could put some small market stations out of business. The proposed changes in the Commission's closed captioning rules will create significant increased costs to small market broadcasters that at a minimum will impact the amount of locally produced programming in those markets.

***The Small Market Teleprompter Captioning Option:*** COBI is dedicated to producing and airing high quality, comprehensive, local programming, including a combined total on its three stations of 4.5 hours of local news per day. For five years, KOBI has produced and broadcast *Academic Challenge*, which places about 20 high schools from all over Southern Oregon in a head to head battle for the championship title and over \$40,000.00 in scholarship money. On a long-running series of periodic special programs, *Up Close with Patsy Smullin*, I have interviewed some of the most intriguing people in America, including TV stars, first ladies, network anchors, musicians, scientists, politicians, and sports figures.

Approximately 75 percent of the 4.5 hours average daily news programming that is produced by the COBI stations is teleprompter captioned. The uncaptioned content includes live breaking news, weather forecasts – which are graphically displayed – and live anchor comments. At a minimum, the cost of live-captioning all of COBI's news product, if the teleprompter option were no longer available, is an estimated \$160,000 a year. The result would be a cutback in news to probably no more than one hour of evening news per day, and other local productions like *Academic Challenge* and the *Up Close* specials would likely no longer be affordable.

In short, to eliminate teleprompter captioning in markets below the top 25 and/or require live captioning would create a significant financial hardship on COBI's stations. The unintended consequences of such a requirement could include the elimination of most, if not all, locally produced content including much of the live breaking local news. Such an outcome would create hardships for the poorest citizens – the very people that rely on free television news, information and entertainment. The current economic downturn has hit much of the area served by COBI's stations especially hard. The counties in the Medford – Klamath Falls DMA have unemployment rates that range from the 13.5 percent in Jackson County to 14.9 percent in Josephine County, with the other counties in the 14 percent range. In the Eugene DMA, unemployment rates are 7.1 percent in Benton County, 11 percent in Lane County, 13.2 percent in Coos County and 15.4 percent in Douglas County. These unemployed persons would likely be affected in greater proportion by any cutbacks in free over-the-air news and informational programming caused by significantly increased costs of news production.

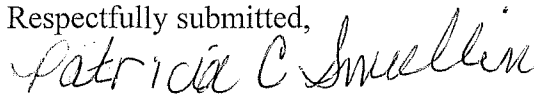
When the Commission adopted closed captioning rules for video programming, it specifically acknowledged the need to balance the benefits of captioning against the potential that captioning costs would hinder production and distribution of programming. To date, captioning technology has not advanced to the point that would enable us to automatically and affordably caption live programming, at a level of accuracy to adequately serve the hearing-impaired viewer. The option to use teleprompter captioning at stations in small markets like those we serve is essential to preserve the level of local news, informational and entertainment programming that stations like ours produce for our audiences.

***The Exemption for Low-Revenue Multicast Channels:*** Elimination of the captioning exemption for multicast streams that produce revenues of less than \$3,000,000 would effectively eliminate multicast streams for our stations. One of our stations currently streams a 24 hour weather service, which is valued by many of our free over-the-air viewers. The channel is currently excused from captioning as a result of the revenue exemption being applied on a per stream basis. If the \$3,000,000 threshold is applied to the station as a whole, requiring all multicast streams to be closed captioned, our weather channel will cease to exist.

***Closed Captioning Quality Standards:*** The proposal that the Commission should establish quality standards for non-technical aspects of closed captioning – grammar, punctuation, spelling, etc. – raises practical questions of whether any such rules could be devised or enforced and whether the cost of enforcement would constitute a reasonable expenditure of the Commission's limited resources. I believe not. In the future, voice recognition systems may provide a means for addressing quality issues. When it becomes available, and assuming the cost is reasonable, broadcasters in small markets should be allowed to use that type of system rather than having to employ highly skilled live captioners.

***Conclusion:*** A realistic look at the economic status of broadcasting – especially stations in small television markets and those in markets with high unemployment rates – requires that the Commission weigh the risk/reward relationship between mandating costly changes in the closed captioning rules and the ability of small market stations to continue providing locally produced programs and specialized secondary channel programming to viewers of free over-the-air television. Such an analysis will confirm that the closed captioning exemption contained in Section 79.1(d)(12) for channels producing revenues of less than \$3,000,000 must be maintained and applied on a per-channel basis, the exemption contained in Section 79.1(d)(11) that provides that no video programming provider shall be required to expend more than two percent of gross revenues to caption programming must be retained and applied on a per-channel basis, and the provisions of Section 79.1(e)(3) allowing the use of teleprompter captioning in news programming of network stations in markets below the Top 25 must be maintained in order not to cripple small market stations in their efforts to serve their viewers with local news, informational and entertainment programs.

Respectfully submitted,

A handwritten signature in cursive script that reads "Patricia C. Smullin".

Patricia C. Smullin

President

California Oregon Broadcasting, Inc.